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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/673,122	09/26/2003	Yuichi Ikeda	17057	1307

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EXAMINER	
KASZTEJNA, MATTHEW JOHN	
ART UNIT	PAPER NUMBER
3739	
MAIL DATE	DELIVERY MODE
08/27/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/673,122	IKEDA ET AL.	
	Examiner	Art Unit	
	MATTHEW J. KASZTEJNA	3739	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *19 May 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *18-22,25 and 27* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *18-22,25 and 27* is/are rejected.

7)☒ Claim(s) *21* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *26 September 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Notice of Amendment

In response to the arguments filed on May 19, 2009, amended claims 18, 25 and 27 are acknowledged. It is noted that claims 23-24, 26 and 28 were previously withdrawn in the election made by the Applicant on December 8, 2008. Thus, currently claims 18-20, 22, 25 and 27 are pending examination and claims 1-9, 15-16, 23-24, 26 and 28 are withdrawn from consideration. The current rejections of the claims *stand*. The following reiterated grounds of rejections are set forth:

Claim Rejections - 35 USC § 102

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 18-20, 22, 25 and 27 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,569,084 to Mizuno et al.

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

In regards to claims 18, 25 and 27, Mizuno et al. disclose an electric bending endoscope comprising: a bending portion 3 arranged to an inserting portion 2; a first

unit 81 which has a frame unit and which holds a motor 85 that generates driving force for bending the bending portion, the frame unit being connected to a cord (not labeled) for supplying a signal for driving the motor from a bending control device 27 (see Fig. 10 and Col. 10, Lines 1-6); a second unit 82 which is separable from the first unit and which has a transmitting member 91 for transmitting the driving force of the motor to the bending portion, the second unit having a main frame to which is connected the inserting portion (see Fig. 10 and Col. 9, Lines 50-61); and a buffering member 83 that is a plate member, the buffering member being connected to the frame unit at a first portion of the plate member and to the main frame at a second portion of the plate member, an intermediate portion between the first portion and the second portion of the plate member being arranged to traverse across a junction between the first unit and the second unit the buffering member absorbing a force applied to the inserting portion by an external operation between the first portion connected to the frame unit and the second portion connected to the main frame (see Fig. 10).

In regards to claims 19, Mizuno et al. disclose an electric bending endoscope wherein the first unit inherently comprises an inner flame for holding the motor and an outer frame for holding the inner frame (see Fig. 10). An inner frame (not shown in the figures) must be provided to readily hold the motor in place within the outer frame 81, as is well known in the art.

In regards to claim 20, Mizuno et al. disclose an electric bending endoscope, wherein the buffering member 83 further includes a fixing member which fixes the inner frame unit a main frame arranged to the second unit (see Figs. 10-13 and 17a-b).

In regard to claim 22, Mizuno et al. disclose an electric bending endoscope, further comprising an operating portion 27/93 connected to the first unit for operating the electric bending endoscope (see Cig. 10 and Col. 1-6), wherein a wheel 90 is arranged to a driving shaft 88 of a driving force transmitting member 91of the second unit, and a rotating shaft 89 of the wheel is arranged in front of the operating portion on a side cross-section of the operating portion in the electric bending endoscope, with respect to the central axis of the inserting portion (see Fig. 10 and Col. 9, Lines 50-67).

Allowable Subject Matter

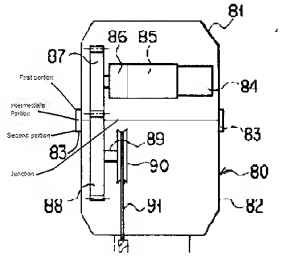
Claim 21 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed May 19, 2009 have been fully considered but they are not persuasive.

Applicant states that Mizuno et al. fail to disclose a buffering member that is a plate member, the buffering member being connected to the frame unit at a first portion of the plate member and to the main frame at a second portion of the plate member, an intermediate portion between the first portion and the second portion of the plate member being arranged to traverse across a junction between the first unit and the second unit the buffering member absorbing a force applied to the inserting portion by an external operation between the first portion connected to the frame unit and the second portion connected to the main frame. Examiner disagrees. Firstly, as broadly

as claimed, clamp 83 is interpreted as being a "plate member". By definition, a plate is a thin, flat sheet or piece of metal or other material, esp. of uniform thickness" (see http://dictionary.reference.com/browse/plate). As clearly seen in Figure 10, clamp 83 is constructed as a "plate member". The plate member 83 has a first portion connected to the frame unit 81 and a second portion connected to the main frame 82 with an intermediate portion (traversing the junction of each unit. See figure below for interpretation of first, second and intermediate portions of the plate member (i.e. buffering member):



Applicant also states that Mizuno e al. fail to teach a buffering member which absorbs an external force as is recited in the independent claims of the instant invention. Examiner disagrees. Mizuno et al. teach that the manipulation portion body 80 of an endoscope 1 is divided into two, that is, a proximal-end side casing 81 and a tip side casing 82 that are coupled together by means of clamps 83 (see Col. 9, Lines 50-55). Thus, the clamps 83, function in an identical manner to the plate member 8 of the instant invention as it secures the frame unit to the main unit. The clamps must be fully

capable of absorbing external forces to ensure that the two units 81, 82 do not separate during normal use of the endoscope. If the clamps did not absorb any external forces, then the two units would easily become separated during use, and render the endoscope inoperable. Thus, as broadly as claimed, Mizuno et al. meet the limitations of the current claims.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MATTHEW J. KASZTEJNA whose telephone number is (571)272-6086. The examiner can normally be reached on Mon-Fri, 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C.M. Dvorak can be reached on (571) 272-4764. The fax phone

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Matthew J Kasztejna/
Primary Examiner, Art Unit 3739

8/26/09